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TO: Ramapo Town Board and Planners

RE: NE Ramapo Comprehensive Planning-- GEIS –Scoping input

For your consideration:

FORMAL WRITTEN STATEMENT TO TOWN BOARD

This land use proposal will affect me personally, as I live in Stony Point not far from “NE Ramapo”—the subject of this “scoping” hearing pursuant to the N.Y.S. Environmental Quality Review Act (“SEQRA”).¹

I have reviewed your online scoping document. My reaction as a citizen of Rockland and as attorney is that your document purposefully avoids crucial topics. These may be potentially controversial. Yet these are topics that are critical to proper long-term planning.

Specifically, your draft scoping document avoids any discussion of demographics and any discussion of socio-economic effects resulting from the rapidly growing communities here in Ramapo. It similarly avoids discussion of the rapidly growing populations of certain communities in New York City, particularly Brooklyn, and the migration of some of that urban population to the suburbs, including the Town of Ramapo, and Rockland and Orange counties (as well as Lakewood, New Jersey). There are many associated issues.

First, let me provide a legal overview in support of my views.

I. Legal authority for examining demographics and social-economic concerns

Master planning must consider the “needs of the community as a whole.”² In Ramapo, this boils down to three things relevant to any NE Ramapo Master Plan amendment.

First, it is demographics, especially exponential population growth. The socio-economic complexion of Ramapo and Rockland will be affected by a substantially larger percentage of the citizenry becoming of one, segregated cultural group. Government must not be blind to this. A

¹ See, N.Y.S. Environmental Conservation Law, article 8.

² See, *Udell v. Haas*, 21 N.Y.2d 463, 469 (1968).

Master Plan should consider projected population trends.³ It should account for regional needs, and whether the needs are met in the region.⁴

Second, zoning and land use regulation can be used to uphold important values, morals and the “general welfare.” The upholding the Bill of Rights, including the First Amendment, is one such value, as is fostering a democracy whose voting citizenry is informed and educated.

Third, there is the localized need in Ramapo for government-enforced sound secular education. The N.Y.S. Education Law requires this, but it appears that many private schools in Ramapo are avoiding this mandate. Sound secular education is essential for the general welfare of Ramapo and Rockland County. Yet State law is not being enforced in private schools. New Ramapo land use regulations can correct this deficiency. Local land use regulation is appropriate.⁵ Poor education produces poverty, and poverty results in crime. Thus, promoting sound secular education in all private schools in Ramapo will promote the general welfare. It will also improve the local economy (a comprehensive planning topic, *see*, Town Law § 272-a) and reduce social services and welfare costs.

II. Demographics and rapid population growth

Rapid population growth is on the minds of many Rocklanders, and perhaps most Ramapoers. Let me confront this population issue head on. Let me ask, respectfully and as politely as I can, some questions of the members or leadership of any and all rapidly growing culturally distinct communities (for example, if Ramapo were located in Pennsylvania, we could ask this of the Amish community, as it has a unique agrarian culture):

- 1) Do you agree that your community has a high birth rate?
- 2) Is there any reason to think that this high birth rate will not continue, with average family size of 8 – 12 children per couple?
- 3) have you done the math as to how the growth rate of your community will

³ *See, Golden v. Planning Bd. of Ramapo*, 30 N.Y.2d 359, 285 N.E.2d 291, 334 N.Y.S.2d 138 (1972); N.Y.S. Town Law § 272-a (b, e).

⁴ *See, Berenson v. Town of New Castle*, 38 N.Y.2d 102 (1975); *see also*, Town Law § 272-a (3)(b) (“Consideration of regional needs”), (e) (“Consideration of population, demographic and socio-economic trends and future projections.”), i (... educational....), l (“Specific policies and strategies for improving the local economy in coordination with other plan topics.”).

⁵ *See*, N.Y.S. Town Law § 163 (“[zoning] regulation ... designed to ... promote health and general welfare; ... to facilitate the adequate provision of ... schools ... and other public requirements”).

affect neighboring communities?

One estimate I heard regarding one identifiable cultural group, with birth rates of between 8 and 12 children per couple, was that its population would become fully one-half of New York State's entire population within roughly 40 years. This is a potential demographic that needs exploration, and better understanding. Ignorance is not bliss. A society needs to understand itself. The Bill of Rights, including but not limited to the Establishment Clause, require this. And a culturally pluralistic nation such as the United States needs to insure that its core values and constitutional principles survive into the future.

In Ramapo, one cultural group's population is rapidly growing. Ramapo (and Rockland County) must plan for this growth. Accompanying this growth will be socio-economic issues. Land use planning must address socio-economic factors such as:

- a. Will the residential development be accompanied by the levels of poverty (or supposed poverty) we see in certain communities identified as economically poor (e.g., the Village of New Square and Orange County's Village of Kiryas Joel/Town of Palm Tree)?
- b. Will private housing be transformed into schools, or into houses of worship (and then taken off the tax rolls)?
- c. Will housing shortages result in developers taking "short-cuts" with corrupt governmental officials, and thereby endanger the safety of residents and emergency services volunteers?
- d. Will the new communities include people who are diverse in their racial, ethnic and religion makeup, or will they be insular communities be comprised of people of one culture or religious faith?
- e. Will new villages likely be formed?

Fast-growing population in New York City (particularly Brooklyn) are finding housing shortages. Many of these city dwellers are, understandably, moving to the suburbs, including the Town of Ramapo and the larger municipalities of Rockland County and Orange County. The NE Ramapo GEIS should examine this potential population influx, including the potential socio-economic issues I just mentioned above. The law requires it. See, Town Law § 272-a (3)(b, e).

Let me suggest specific subjects of inquiry. Let me also suggest that the Town of Ramapo will be abrogating its responsibility to fulfil its obligation to reasonably plan for the future if it does not:

1. Examine the all the diverse cultural communities in Ramapo and this region (and any other similarly growing cultural communities in the NYC metropolitan area) to ascertain:

- a. The demographics of their community, and specifically, average rate of population growth , and
 - b. As to such communities located especially in New York City (e.g., Brooklyn) or other nearby urban centers, their migration patterns, and forecast for migration (or desire to migrate) to the suburbs, and in particular, to migrate into the Town of Ramapo, the County of Rockland and the County of Orange, NY.
 - c. Other ethnic or cultural groups that have large population growth and movement into the NYC suburbs.
2. Ascertain what housing is presently available, or is forecast to be available in the foreseeable future, to members of the one or more rapidly growing cultural communities seeking to move into other towns in Rockland County (namely, Orangetown, Clarkstown, Haverstraw and Stony Point).
3. Identify proper, non-discriminatory zoning and planning goals and tools appropriate for accommodating the desire of members of the one or more rapidly growing cultural communities identified above.
4. Identify proper, non-discriminatory zoning and planning tools for insuring that the ALL children (including children of any religious, ethnic or cultural group) receive a sound secular education if they attend a private school (including a “religious” school such as a Catholic parochial school, an Islamic madras, or a Jewish yeshiva). Below, I propose land use regulation that requires that all private schools, as a condition to receiving a certificate of occupancy or other permission to operate, consent to random inspection and documentation of their educational operations. *See*, V, below.

Rational land use planning requires understanding facts and using relevant facts to plan for the future. This includes demographics.

Thus, the scope of the proposed amendments to the Master Plan and its EIS must consider demographics and the socio-economic impacts of the increasing size of the Ramapo-born and Brooklyn-born Hasidic community. If the population growth rates and migration trends from Brooklyn are not considered, and poverty statistics of New Square, Kiryas Joel and Lakewood ignored, the result may be unwitting emulation of poor models for local governance.

III. American democratic values and land use regulation

Some communities have different cultural preferences than others. America welcomes diversity. America is also a nation of shared basic values, such as respect for individual liberty,

individual freedom of religious belief, patriotism, a willingness to sacrifice for the greater good, and honoring and upholding our nation's core values, including the principle of "liberty and justice for all" and democracy effectuated by an informed, educated citizenry.

The lofty ideals of democracy are not so abstract as to be irrelevant to local governance. The law of land use planning is founded upon serving the public interest. Thus, if an anticipated land use is contrary to the public interest, or will foster a culture contrary to what our state and United States' constitutions demand, such land use can be appropriately regulated for the "general welfare."⁶

Land use regulation must be rational, not arbitrary. It is impossible to be rational if reality—for example, demographics and identifiable groups or cultures population trends—are not considered.

Consideration of demographics is not impermissible. Rather, socio-economic impacts must be considered under the SEQRA. This is particularly true in the context of land use regulation and analysis, where social and economic factors are often central to land use planning. SEQRA requires balancing of the socio-economic with the ecological, as part of the required environmental review.⁷ Thus, socio-economic factors must be considered under SEQRA, and specifically in the Generic EIS, the scope of which is the subject of the potential NE Ramapo Master Plan under consideration.

IV. Disregard for N.Y.S. Education Law in many Ramapo private schools

It is widely reported that many private schools in Ramapo do not provide an adequate secular education. Perhaps most important thing that the Town can legislate is for any new Ramapo land use regulation to include inspection tools to allow appropriate governmental officials to enforce the mandates for sound education of children required by the N.Y.S. Education Law. Many if not most of the socio-economic concerns discussed in this submission

⁶ See, e.g., *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926); *Nectow v. City of Cambridge*, 277 U.S. 183 (1928).

⁷ See, N.Y.S. Environmental Conservation Law §8-0109(8); see also, 6 N.Y.C.R.R. §617.11(d)(5)("[C]ertify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decisions those mitigative measures that were identified as practicable").

will be mitigated, if not totally alleviated, if all children, including those attending private schools such as Catholic parochial schools and Jewish Yeshivas, are assured their right to a sound, liberal secular education—the education mandated by the State law.

No one should criticize any group of people for wanting health, happiness, prosperity and a loving family life. These are universal desires. Different cultural groups promote these values in different ways.

But we are all Americans. We should all share some basic values--things like patriotism, service to country and community and respect for other people's cultural diversity and religious beliefs . Most of us learn these values in school.

But some of us do not. The lack of education on American cultural and societal values, including the core principles of our societal norms and system of government, about diversity and respect for all people's religious beliefs, must be taught to all American schoolchildren. Shared values and individual liberty are what make America great. Children need to be taught these shared values in their impressionable, formative years, in school.

History shows that sound education in a society reduces family size. In advanced societies throughout the world, for example, in countries as geographically separated as Germany, Canada, Japan and New Zealand—as well as in the United States— economic prosperity and relatively small family size coincide. The countries enjoy high standards of quality of life and general measures of happiness. When cultural groups are not competing against each other for resources, but instead are cooperating with each other to provides quality of life for all, striving to live in harmony with each other, the larger society is better for it. Overall crime is reduced, and hate crimes averted because people understand and willingly coexist better with each another.

V. Land use & private schools proposal

Regarding schoolchildren education and scoping, I ask that the GEIS identify proper, non-discriminatory zoning and planning tools for insuring that the ALL children (including children of any religious, ethnic or cultural group receive a sound secular education if they attend a private school (including a “religious” school such as a Catholic parochial school, an Islamic madras, or a Jewish yeshiva).

I propose this be done by requiring that any such school, as a condition to receiving a certificate of occupancy or other permission to operate, consents to random inspection and

documentation of their educational operations by State or Local education or social services officials, the County (including County Attorney's office,), the N.Y.S. Attorney General's Office, the N.Y.S. Comptroller's Office and the District Attorney's office.

If, after notice and an opportunity to be heard, the private school is found to be providing an inadequate education by a preponderance of the evidence (i.e., a level of education that would not meet the "home schooling" requirements of State law and that would subject a parent to a finding of educational neglect under the N.Y.S. Family Court Act), the certificate of occupancy of the school shall be revoked and the private school ordered closed.

VI. Conclusion

Failure to identify in the SEQRA scoping (and then address in a GEIS) the "present and reasonably foreseeable needs of the community" and the regional needs discussed above, by adopting a plan that favors one or more special interest group will undermine, if not violate, the larger society's and the Nation's core values and constitutional principles. Devising a NE Ramapo Master Plan that ignores the "general welfare," including core democratic values, will violate the land use planning principles articulated by New York's highest court.⁸ And land use regulation can protect children, including their right to a sound education.

Therefore, I request that you consider the above as you finalize your SEQRA scoping document. Your consideration is appreciated.

Respectfully submitted,

/S/

Michael D. Diederich, Jr.

⁸ See, *Rodgers v. Village of Tarrytown*, 302 N.Y. 115, 121-122 (1951) and *Thomas v. Town of Bedford*, 11 N.Y.2d 428, 434 (1962).

Oral Comments of M. Diederich

Prepared for Presentation to Town Board

Good Evening Town Board:

My name is Mike Diederich and I am running for District Attorney. In examining your scoping document, the omission of crucial socio-economic and taxpayer topics suggests that this is a sham process designed to hide true intentions.

Fighting governmental corruption affecting schoolchildren and taxpayers is precisely the reason I am running for DA in this county. Perhaps you are blind to what's going on around you. But you are all elected officials and you know where your votes come from. But if you sacrifice the general welfare in order to favor special interests and your own re-election, then you are betraying the public trust and acting in a corrupt fashion.

As to the general welfare:

First, ANYONE born and raised in Ramapo should be allowed to raise a family here. Zoning designed to favor or punish ANY particular group, religious or otherwise, is impermissible and wrong.

Second EVERYONE is entitled to safe housing in a safe neighborhood. We ALL should agree that fair and non-discriminatory zoning laws, housing laws and fire codes MUST be respected, because otherwise we endanger the lives of the public, EMS volunteers and firefighters.

Third, we all are entitled to sound, transparent land use planning, designed in good faith and with foresight. Yet the Town's scoping document blatantly ignores vital topics. The document is insufficient on its face because it ignores consideration of:

1. changing demographics;
2. overdevelopment—endangering people, fostering poverty, increasing social welfare costs, and increasing crime, especially economic crime;
3. the scoping ignores inadequate education in many private schools in Ramapo. Where will the additional thousands of children be educated. What will be the school bus traffic? Sound education leads to prosperity, individual freedom and a law-abiding society. You must help and protect the children.

You and your planners obviously want to avoid addressing these difficult issues in an EIS. Avoiding discussion of demographics and population growth serves the special interests. But it disserves the public. Rapid population growth within Ramapo is a reality. As is population migration to Ramapo from places such as New York City, particularly Brooklyn. Government cannot properly plan for the future if you ignore known facts and reasonably foreseeable trends.

I'll provide your clerk with my longer formal written submission, with specific proposals, and post these online. Thank you for your attention.

END of ORAL STATEMENT